

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olufunke Awosogba	Team: Team # 6	CCRB Case #: 200708426	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Friday, 06/08/2007 11:00 PM	Location of Incident: 14th Precinct Stationhouse	18 Mo. SOL 12/8/2008	Precinct: 14
Date/Time CV Reported Thu, 06/14/2007 1:50 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/14/2007 1:50 PM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Klein	27451	925811	MTS PCT
2. POM Matthew Stanton	19890	937583	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Matthew Stanton	Force: PO Matthew Stanton used physical force against § 87(2)(b) [REDACTED]	
B . POM Michael Klein	Force: PO Michael Klein used physical force against § 87(2)(b) [REDACTED]	

### Synopsis

On June 8, 2007, at approximately 11:00 PM, in the vicinity of West 35<sup>th</sup> Street and 8<sup>th</sup> Avenue in Manhattan, § 87(2)(b) and § 87(2)(b) entered a yellow cab to go to their home in § 87(2)(b) Queens. When the cab driver refused to take them to their destination, § 87(2)(b) had the driver take them to the Midtown South Precinct station house. When they arrived § 87(2)(b) tried to explain the situation to the officers that stood outside of the police building, which included PO Matthew Stanton and PO Michael Klein. During this time, the cab driver told the officers that § 87(2)(b) threatened and harassed him, then left the station house. PO Stanton allegedly pushed § 87(2)(b) then handcuffed him and took him inside of the station house (allegation A). § 87(2)(b) followed them inside and cursed at officers about § 87(2)(b) being handcuffed. PO Michael Klein then tightly grabbed § 87(2)(b) by her arm and arrested her (allegation B).

§ 87(2)(g)

### Summary of Complaint

§ 87(2)(b) (Enc. 4a, 6a -d)

§ 87(2)(b) is a 5'3", 160-pound, Caucasian, § 87(2)(b)-old § 87(2)(b). On June 14, 2007, § 87(2)(b) filed this complaint with the CCRB over the phone reporting that when she and her fiancée § 87(2)(b) went to the Midtown South Precinct station house because a cab driver refused to drive them to their destination, the officers sided with the cab driver. § 87(2)(b) was arrested for § 87(2)(b), and then she was arrested for § 87(2)(b) after she cursed at officers.

On July 2, 2007, § 87(2)(b) was interviewed at the CCRB regarding an incident that occurred on June 8, 2007. § 87(2)(b) stated that on June 8, 2007, around 11:00 PM, she and her fiancé, § 87(2)(b) were going home to § 87(2)(b) Queens from a bar in the vicinity of 35<sup>th</sup> Street and 8<sup>th</sup> Avenue in Manhattan. They were out for § 87(2)(b)'s birthday and had been drinking alcoholic beverages that night. § 87(2)(b) stated that she had about four drinks that night, and saw § 87(2)(b) with one drink. After the celebration, § 87(2)(b) and § 87(2)(b) tried to hail a cab home. They were inside of a cab when they told the driver their destination, but the cab driver told them that he would not take them to their destination.

§ 87(2)(b) then told the cab driver to take them to the nearest precinct station house. When they arrived at the Midtown South Precinct station house (at the time of interview, § 87(2)(b) believed that it was the 28<sup>th</sup> Precinct), he rushed out of the cab and told the three to four white uniformed officers that were standing outside of the precinct station house that § 87(2)(b) and § 87(2)(b) were harassing him. § 87(2)(b) and § 87(2)(b) were approaching the officers at this time. § 87(2)(b) took out his ID out of his wallet and told the officers that he would explain the situation. The cab driver went back into his cab and drove off around this time. § 87(2)(b) stated that an officer (described as a 5'10" to 6'0" white male, with an average build and light brown hair and later identified as PO Matthew Stanton) immediately grabbed § 87(2)(b)'s arm and handcuffed him. As PO Stanton handcuffed § 87(2)(b) § 87(2)(b) told PO Stanton to let him explain the situation. § 87(2)(b) stated that § 87(2)(b) never got a chance to explain the situation and was taken into the precinct station house.

§ 87(2)(b) followed the officers and § 87(2)(b) inside of the police building and cursed at the officers. § 87(2)(b) asked the officers, "What the fuck are you doing?" The desk sergeant (PO2 -- described as a white male, with a pale complexion, light eyes; he appeared to be in his 50's and was balding) told her to leave the precinct station house a couple of times. § 87(2)(b) asked PO2 why § 87(2)(b) was being arrested and told PO2 that she was not leaving because she'd been drinking earlier. During the interview, § 87(2)(b) stated that the officers should have been able to tell that she'd been drinking that night and could not take a train home by herself. § 87(2)(b) then commented, "What are you prejudice motherfuckers? What kind of bullshit is this?" The sergeant then said, "Okay. Now, you're under arrest." PO Klein (described as a 5'10" white male, with blue eyes, light hair, and a medium build) tightly grabbed her by her arm then handcuffed her. § 87(2)(b) mentioned that § 87(2)(b) was released that night and that she remained in police custody.

§ 87(2)(b) (Enc. 5a-f, 7a-e)

§ 87(2)(b) is a 5'7", 160-pound, African-American, § 87(2)(b)-old § 87(2)(b). On July 2, 2007, § 87(2)(b) was interviewed that the CCRB regarding an incident that took place on June 8, 2007. § 87(2)(b) stated that on June 8, 2007, around 11:00 PM, he and his girlfriend, § 87(2)(b) tried to hail a yellow cab to go home in § 87(2)(b) Queens. The two of them were out celebrating his birthday with co-workers at Vesta Lounge located on 8<sup>th</sup> Avenue between West 29<sup>th</sup> and West 30<sup>th</sup> Streets in Manhattan. § 87(2)(b) and § 87(2)(b) had been drinking that night, but § 87(2)(b) stated that he was not affected "much" by the alcohol. § 87(2)(b) was intoxicated.

As § 87(2)(b) and § 87(2)(b) stood on West 34<sup>th</sup> Street and 8<sup>th</sup> Avenue, they were able to get into the third yellow cab that stopped for them. As the cab driver pulled off, § 87(2)(b) told the cab driver their destination, and like the previous cab drivers that night, the cab driver told them that he would not take them to their destination. § 87(2)(b) refused to get out of the cab. He and the cab driver argued for about three minutes, then § 87(2)(b) told the cab driver to drive him to the nearest precinct station house. The cab driver drove § 87(2)(b) and § 87(2)(b) to the Midtown South Precinct station house. PO Stanton (described as a 5'7" to 5'8" white male with blonde hair; he appeared to be in his thirties) and about five other white male officers stood outside of the precinct station house. § 87(2)(b) stated that he obtained PO Stanton's name when he focused on PO Stanton's shield as he sat on the concrete bench.)

§ 87(2)(b) got out of the car with his ID in hand and began to explain the situation to PO Stanton. As § 87(2)(b) spoke to PO Stanton, § 87(2)(b) stood silently next to § 87(2)(b). PO Stanton told § 87(2)(b) about three times to find another cab. The cab driver approached them and told PO Stanton that § 87(2)(b) threatened him. § 87(2)(b) stated that the cab driver did not specify the alleged threat to PO Stanton. § 87(2)(b) told the cab driver that if he did threaten him, he would repeat the threat in front of PO Stanton because "he had nothing to hide." The cab driver went back to his cab. § 87(2)(b) stated that he did not pay attention to the cab driver's whereabouts after that.

§ 87(2)(b) tried to explain his unsuccessful attempts with prior cab drivers that night. At this point, PO Stanton "got in § 87(2)(b)'s face," told him to relax, then pushed § 87(2)(b)'s right chest, forcing § 87(2)(b) to sit on a concrete bench behind him. PO Stanton elevated his tone with § 87(2)(b) and told him to relax. § 87(2)(b) stated that PO Stanton was aggressive and had an attitude at this point. PO Stanton stood over him as he sat on the bench. § 87(2)(b) told PO Stanton that he did not have to put his hands on him and tried to tell PO Stanton that he felt discriminated against by the cab driver. PO Stanton became upset and told § 87(2)(b) to shut up and that he was under arrest and handcuffed him. § 87(2)(b) did not recall if PO Stanton was the officer (or the only officer) that handcuffed him because his back was turned to the officers when he was handcuffed.

While § 87(2)(b) was inside of the precinct station house, he heard § 87(2)(b) yelling at the officers about why they arrested § 87(2)(b). Two minutes later, § 87(2)(b) heard § 87(2)(b) ask the officers why they were arresting her. The other officers that were outside witnessed the entire incident.

### **Results of Investigation**

#### **PO Matthew Stanton (Enc. 8a -9b)**

On July 25, 2007 the CCRB interviewed PO Matthew Stanton of the Midtown South Precinct regarding an incident that occurred on June 8, 2007. PO Stanton (a 5'9", 200-pound white male with brown hair and green eyes) worked in uniform from 11:15 PM on June 8, 2007 until 7:50 AM the following day with Sgt. Michael McGovern. PO Stanton kept the following memo book entries regarding the incident: at 11:15 PM, § 87(2)(b) was under arrest for § 87(2)(b) in front of the Midtown South Precinct station house located at 337 West 135<sup>th</sup> Street by PO Klein. § 87(2)(b) approached officer acting violent and irate; he became hostile toward PO Stanton when questioned and refused to comply with a lawful order to disperse.

On June 8, 2007, at approximately 11:00 PM, PO Stanton was in front of the Midtown South Precinct station house with a few other officers, including PO Michael Klein of the Midtown South Precinct, waiting for Sgt. McGovern to go out on patrol. A yellow cab stopped in front of the precinct station house and § 87(2)(b) got out of the cab and approached PO Stanton. § 87(2)(b) was "very irate" and "intoxicated." § 87(2)(b) smelled of alcohol, had slurred speech, and his eyes weren't steady.

§ 87(2)(b) told PO Stanton that the cab driver was not taking him to his destination in Brooklyn and that he wanted PO Stanton to do something about it. The cab driver approached PO Stanton and tried to explain the situation to PO Stanton, but § 87(2)(b) interrupted him. The cab driver told PO Stanton that

§ 87(2)(b) did not owe him any money, and that he just wanted § 87(2)(b) out of his cab. PO Stanton stated that § 87(2)(b) § 87(2)(b)'s girlfriend got out of the cab as well, so he told the cab driver that he could leave. PO Stanton suggested to § 87(2)(b) that he catch another cab. § 87(2)(b) told PO Stanton that that was not good enough and that he wanted PO Stanton to do something about the situation. § 87(2)(b) told PO Stanton that the guy should not be a cab driver if he does not know where to go.

§ 87(2)(b) then told the cab driver that he was going to "kick his ass" and moved closer toward the cab driver. PO Stanton extended his arm and slightly nudged § 87(2)(b)'s chest to get him to stop from moving any closer to the cab driver. § 87(2)(b) swatted PO Stanton's arm away, and tried to move toward the cab driver again. PO Stanton told the cab driver to "get out of there," then pushed § 87(2)(b) against his chest again. § 87(2)(b) sat against a concrete wall for a brief moment then got up. § 87(2)(b) approached PO Stanton and with his finger about two inches from PO Stanton's nose, he told PO Stanton not to touch him again, and that he worked for § 87(2)(b). PO Stanton made an attempt to move § 87(2)(b)'s pointed finger with his hand, but § 87(2)(b) moved his hand before contact was made. § 87(2)(b) then moved his hand up toward PO Stanton's face again when PO Stanton grabbed § 87(2)(b)'s arm, turned him around, and then handcuffed him.

PO Stanton escorted § 87(2)(b) into the precinct station house and handcuffed § 87(2)(b) to a bench. Lt. Scott McKeivitt, the desk supervisor at the time, told PO Stanton that § 87(2)(b) could not be issued a summons because § 87(2)(b) was intoxicated. PO Stanton did not know to what extent Lt. McKeivitt spoke to § 87(2)(b). PO Stanton stated that he heard § 87(2)(b) yelling at officers. § 87(2)(b) also appeared as though she was intoxicated. PO Klein brought § 87(2)(b) into the precinct station house in handcuffs. PO Stanton stated that he had no interaction with § 87(2)(b) during the incident.

#### **PO Michael Klein (Enc. 10a-14b)**

On August 1, 2007 the CCRB interviewed PO Michael Klein of the Midtown South Precinct regarding an incident that occurred on June 8, 2007. PO Klein (a 6'1", 214-pound white male with brown hair and hazel eyes) worked in uniform from 4:00 PM on June 8, 2007 until 12:00 AM the following day. He was assigned to Foot post 1 and 2, which covered Madison Square Garden. PO Klein kept the following memo book entry regarding the incident: at 11:45 PM, § 87(2)(b) was under arrest for § 87(2)(b) inside of the Midtown South Precinct station house located at 337 West 135<sup>th</sup> Street.

On the *Online Booking Sheet (OLBS)* for § 87(2)(b) PO Klein indicated that at the time and place of the occurrence that he (PO Klein) was informed that § 87(2)(b) was acting in a violent tumultuous behavior on a public sidewalk causing public alarm and panic. It was also indicated that no force was used against § 87(2)(b). In the OLBS for § 87(2)(b) PO Klein stated that the time and place of the occurrence § 87(2)(b) was asked to leave the station house numerous times when she became irate and violent causing a public nuisance and alarm. They were both charges with § 87(2)(b).

On the *criminal court complaint*, PO Klein stated that he observed § 87(2)(b) yelling and screaming, throwing papers and a pen in the direction of another individual, and observed § 87(2)(b) state (in substance), "This is fucking bullshit. You are fucking racists. All you guys are worthless." PO Klein further stated that § 87(2)(b)'s conduct created a public disturbance/inconvenience in that it caused people to express alarm.

On June 8, 2007, around 11:35PM PO Klein entered the Midtown South Precinct station house from his foot post. PO Klein saw § 87(2)(b) standing next to the T.S. Operator, which is not far from the sergeant's desk. § 87(2)(b) was acting "violent" --yelling profanities at Sgt. Michael McGovern, the assigned desk sergeant at the time. § 87(2)(b) told the desk officer that the officers locked up her boyfriend, § 87(2)(b) because he's black and she's white and that she and her boyfriend just wanted to catch a cab ride home.

Sgt. McGovern told § 87(2)(b) "Ma'am. Go home. Everything will be settled. You are very intoxicated." PO Klein believed that § 87(2)(b) was intoxicated because her speech was slurred, she smelled of alcohol, and she could barely stand on her own two feet. § 87(2)(b) threw a pencil at Sgt. McGovern. Sgt. McGovern then ordered PO Klein to arrest § 87(2)(b). PO Klein stated that he took § 87(2)(b) by her arm, and then arrested her with PO Stanton's and Sgt. McGovern's assistance. PO Klein stated that § 87(2)(b) did not calm down during her time at the precinct. Although PO Klein was not present when § 87(2)(b) was placed in handcuffs, he processed § 87(2)(b)'s arrest. § 87(2)(b) was "highly intoxicated" and wanted to call his mother, which he later did. PO Klein stated that § 87(2)(b)

repeatedly banged his head against the holding cell while he was at the precinct. PO Klein never issued § 87(2)(b) a summons.

#### **Police Documents (15a -17c)**

The *Midtown South Precinct roll call for June 8, 2007, tour 3* showed that Sgt. Connolly was assigned as the desk sergeant and that PO Klein was assigned to special foot post #2; Lt. McKevitt, PO Stanton, and Sgt. McGovern's names were not listed. The *Midtown South command log for June 8, 2007, tour 3* showed two entries prior to some arrests (including § 87(2)(b) and § 87(2)(b) that Lt. McKevitt and Sgt. Connolly were on duty and that Sgt. McGovern performed an administrative task. The log showed that both § 87(2)(b) and § 87(2)(b) were intoxicated at the precinct.

The *prisoner holding pen roster* showed that § 87(2)(b) and § 87(2)(b) were admitted in their respective cells at 12:10AM and were removed to Manhattan Central Booking at 3:45AM.

#### **Civilian's Criminal Conviction History (Enc. 17a -18f)**

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Civilians' CCRB History (Enc. 3a-b)**

This is § 87(2)(b)'s and § 87(2)(b)'s first CCRB complaint.

#### **Officers' CCRB History (Enc. 2a-b)**

PO Stanton and PO Klein have never been disciplined as a result of a CCRB complaint.

### **Conclusions and Recommendations**

#### **Officer Identification**

§ 87(2)(b) identified PO Stanton's name from looking at his shield during the incident. Although § 87(2)(b) did not identify any officers, she provided detailed descriptions of the officers involved, which matched that of PO Stanton and PO Klein. Furthermore, police documents affirm that the officers were present for duty and the officers confirmed their involvement in this incident.

#### **Undisputed Facts and Disputed Issues**

It is clear that § 87(2)(b) and § 87(2)(b) had been drinking alcohol earlier on the night of the incident and when they got to the precinct station house, the cab driver told the officers that § 87(2)(b) threatened and harassed him. It is also clear that PO Stanton pushed § 87(2)(b) at some point while in front of the station house, and then escorted inside of the precinct station house in handcuffs. § 87(2)(b) went inside of the precinct station house, cursing and screaming at officers about her boyfriend being handcuffed. PO Klein subsequently arrested § 87(2)(b) for § 87(2)(b).

#### **Assessment of Evidence**

§ 87(2)(b) and § 87(2)(b) arrived at the Midtown South Precinct station house clearly upset and intoxicated. They were upset because they could not get a cab ride home, § 87(2)(g)

§ 87(2)(b) the cab driver informed PO Stanton that § 87(2)(b) threatened him. § 87(2)(b) admitted that he confronted the cab driver in front of PO Stanton when the cab driver made this allegation against him. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation A: PO Matthew Stanton used physical force against § 87(2)(b)**

**Allegation B: PO Michael Klein used physical force against § 87(2)(b)**

According to the Police Student's Guide: Use of Force, an officer is allowed to utilize compliance techniques, which include wrestling holds and grips designed to physically overpower subjects, when the subject presents minor physical resistance; and an officer is allowed to use firm grips on arms when the civilian presents verbal resistance to the officer's directions (enc. 1a).

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: